

**IN THE HIGH COURT OF TELANGANA AT HYDERABAD****W.P. No. 31967 of 2015****Between:**

V.Gandhi

... Petitioner

And

Kakatiya University

... Respondent

**JUDGMENT PRONOUNCED ON: 26.02.2024****THE HON'BLE MRS JUSTICE SUREPALLI NANDA**

1. Whether Reporters of Local newspapers : Yes  
may be allowed to see the Judgment?
2. Whether the copies of judgment may be : Yes  
marked to Law Reporters/Journals?
3. Whether Their Lordships wish to : Yes  
see the fair copy of the Judgment?

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**SUREPALLI NANDA, J**

**THE HON'BLE MRS JUSTICE SUREPALLI NANDA****W.P. No. 31967 of 2015****% 26.02.2024****Between:**

# V.Gandhi

..... Petitioner

**And**

\$ Kakatiya University

... Respondent

**< Gist:****> Head Note:**

!Counsel for the Petitioner: Mr S.Lakshmikanth

^Standing counsel for respondent: Mr.P.Bhanu Prakash

**? Cases Referred:**

1. (2010) 13 SCC 427
2. (1990) 3 SCC 23
3. (2009) 1 SCC 610
4. (1976) 1 SCC 311

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

W.P. No. 31967 of 2015

**ORDER:**

Heard the learned counsel Mr.Lakshmikanth appearing on behalf of the petitioner and Mr.P.Bhanu Prakash, learned counsel appearing on behalf of the respondent.

**2. The prayer as sought for by the petitioner in the present writ petition, is as under:**

"to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of respondent in issuing the impugned order dated 21.09.2015 cancelling the MA (Telugu) Degree of the petitioner and further intending to informing him to surrender the Certificate in original to the respondent within 15 days is as illegal, arbitrary, ultra vires, contrary to rules and violative of Article 14, 19(1g).

**3. PERUSED THE RECORD**

**A) The show cause notice dated 04.08.2014 issued to the petitioner by the respondent university, reads as under:**

"You had approached the University for Award of Rajiv Gandhi National Fellowship given to disabled scholars for pursuing Ph. D. A complaint was received from Shri

M. Venkat Reddy and two others stating that for getting the said award of Rajiv Gandhi National Fellowship and for getting admission to M.A (Telugu) in the year 2011 you submitted fake documents. They sought information of your participation in the NIC camps from the concerned authorities under right to information Act and found that your name is not recorded. Shri M. Venkat Reddy and two others also stated in their complaint that the certificates submitted for admission are fake, and hence the post graduation certificate may be cancelled, they further submitted that a cheating case be registered against you.

A committee was accordingly constituted to find out the truth in allegations, consisting (1) Prof. N. Rama Swamy, (2) Prof. T. Ravinder Reddy, (3) Prof. M.V. Ranga Rao, (4) Dr. Narshimha Chary, (5) Dr. B.Suresh Lal, (6) Prof. D. Rajendra Prasad and (7) Mr. K. Damodar Rao and the committee submitted a report holding that you sought admission in M.A Telugu in the year 2011 on the basis of the two fake National Integration Camp Certificates of Nehru Yuva Kendra under NSS quota.

The findings recorded by the committee are as follows:-

1. Mr. Valishetti Gandhi submitted a "Orthopedically Handicapped Certificate" issued by one-member board in 2005 for the award of Rajiv Gandhi National Fellowship. The medical Officer, KU who is a member of the Committee expressed the opinion that as per clause xi of Go Ms. No 31 dated 01.12.2009, the certificate submitted by Mr. Valishetti Gandhi is no longer valid, and the disability of a person shall have to be assessed afresh regarding the percentage of disability, and that all existing certificates issued earlier will be replaced by the new reassessment certificates issued by a three-member medical Board. In the light of the said GO, the Committee recommends that Mr. Valishetti Gandhi as well as others who submitted earlier medical assessment certificates for the award of Rajiv Gandhi Fellowship may now be asked to produce genuine, authentic new reassessment certificates issued by three

member Medical Board for release of Fellowship amount.

2. The genuineness of National Integration Certificates submitted by Mr. Valishetti Gandhi has been verified with the concerned authorities. The District Coordinator of Nehru Yuva Kendra intimated that the said candidate did not take part in the National Integration Camp and hence, the question of issuing a participation certificate to Mr Valishetti Gandhi did not arise. The Dist. Co-ordinator, NYC, Karimnagar mentioned that they did not conduct a programme at all during the year 2008 and hence the question of issuing a certificate to Mr. Valishetti Gandhi did not arise. Therefore, the participation certificates of National Integration Camps produced by Mr. V.Gandhi are found fake.

3. From the records available in the Directorate of Admissions, the In Charge Director of Admissions expressed the view that Mr. Valishetti Gandhi got admission to M.A Telugu in 2011 on the basis of the two fake National Integration Camp Certificates of Nehru Yuva Kendra which helped him find a place in priority II of NSS, that year.

Therefore, you are hereby directed to show cause and submit your explanation against the findings of the committee within a period of (5) days from the date of receipt of this show cause notice, failing which the matter will be placed before Standing Committee of the Academic Senate to take appropriate decision as per law and no further opportunity shall be provided thereafter.

**B) The relevant portion of the orders impugned No.650/B2/KU/2015, dated 21.09.2005 passed by the respondent, reads as under:**

"3. From the records available in the Directorate of Admissions, the In-charge Director of Admissions expressed the view that Mr. V. Gandhi got admission to

M.A. Telugu in 2011 on the basis of the two fake National Integration Camp Certificates of Nehru Yuva Kendra which helped him to find a place in priority II of NSS that Year

In view of the complaint made by Mr. Venkat Reddy and two others, a Show Cause Notice vide reference 3<sup>rd</sup> cited was served to Mr. Valishetty Gandhi to submit his explanation against the findings of the Committee. He has submitted his explanation as hereunder in verbatum:

1. I wish to submit that I met with an accident in 2005 at... In this accident one of my companion died and I was declared Orthopedically Handicapped and a Certificate" to this effect was issued by one member board in 2005, as per the rules in vogue then. The Medical Officer, KU (whose name does not figure in the committee), as per clause xi of G.O.Ms.No. 31; dated 1.12.2009, opined that "Orthopedically Handicapped Certificate" issued to me in 2005 is no longer valid and the disability should be assessed afresh. Therefore he suggested to produce a genuine, authentic new assessment certificate attested by three medical board. The medical officer did not opine that "Orthopedically Handicapped Certificate" issued in 2005 by one-member board is fake. I wish to state that my application for genuine, authentic, new assessment certificate will be issued in the next southern camp.
2. I wish to submit that District coordinator, NYC, Warangal & Karimnagar have stated (orally) that I have not participated in NICs and issuance of participation certificates does not arise, therefore the 2 certificates are fake. However, I wish to state that the list of participants in NICs includes my name.
3. I wish to submit that In-charge Director, Admission Directorate reported that I got admission into M.A. (Telugu) based 2 NSS certificates. However, I wish to state that my admission into M.A. (Telugu) was based on 4 NSS certificates.

**As per the rules of admission, "the admission of a candidate will be cancelled at any**

**time during the course of study and the candidate is liable for criminal prosecution, if it is found that admission is secured on false grounds or by suppression of facts".**

After that, the matter was placed before the Standing Committee of the Academic Senate at its meeting held on 5th May, 2015 and after the elaborate discussions. the Standing Committee of the Academic Senate took a decision to recommend to the Executive Council to cancel M.A. Telugu Degree obtained by Mr. Valishetti Gandhi who sought admission into the course in 2011 by producing fake NSS certificates and to initiate appropriate action against Mr. V. Gandhi and also to inform the matter to the UGC with regard to sanction of Rajiv Gandhi National Fellowship given to disabled scholars pursuing Ph.D. Degree.

Later, the matter was placed before the Executive Council at its 112th meeting held on 27th August, 2015 and the Executive Council has resolved to cancel the M.A. (Telugu) degree awarded by Kakatiya University to Mr. Valishetty Gandhi and also to inform the University Grants Commission to cancel the sanction of Rajiv Gandhi National Fellowship given to disabled scholars pursuing Ph.D. Degree.

Hence, the M.A. (Telugu) degree awarded to Mr. Valishetty Gandhi with Roll No. 12000A001 is hereby cancelled, by removing his name from the register of "Registered Graduates". Even, if he has obtained the original degree certificate (patta) of the said course from the KU, his degree is invalid.

Further, he is hereby informed to surrender the said certificate in original to the undersigned within fifteen (15) days from the date of receipt of these orders, failing which criminal case will be initiated against him. Mr. Valishetty Gandhi will be held responsible, if he claims with Photostat copies of the same, anywhere and for any purposes.

**C) The counter affidavit filed by the respondent and in particular paras 5 and 8(a) to (g) read as under:**

"5. It is humbly submitted that in reply to para No: 4, of the affidavit, based on a complaint received by the University, the University has constituted a Committee and the committee after threadbare enquiry about the allegations called upon the petitioner to produce all original certificates of the petitioner for verification. **On 21-07-2014, he produced the certificates and presented his case. Further, the petitioner in his statement dated 26-07-2014 sought time for submission of his participation certificates in NSS Camp. But, he failed to do so. Thus, his statement that the enquiry is conducted in an unfair manner is not correct.**

8. It is submitted that, the statement of the petitioner is wrong. His seat into M.A. Telugu course at the University College is merely on 'NSS' certificates, otherwise, he could not get the seat in University College. The enquiry of the committee was conducted in a fair means of way. The petitioner was also given opportunity to establish genuinity during the enquiry and after the enquiry also before placing the matter before Standing Committee of Academic Senate. The replies given by the concerned NICs clearly state that they have not conducted any NICS during the periods, as stated in the certificates as produced by the petitioner (Exhibit -4). Since the admission of the



petitioner into M.A. Telugu course at the University College itself found incorrect and cancelled, the further courses of study based on the said cancelled certificates stand automatically null and void. Hence, whatever the OHC it may be, the fellowship will be nullified which was given on the basis of the said wrong admission.

a) The orders cancelling the Degree of M.A. Telugu are as per rules and duly following the procedure.

b) The University has given ample time to the petitioner to establish his genuinity but he has failed to do so.

e) The petitioner's admission into M.A. (Telugu) course at the University College is not only based on the merit and also from (4) NSS certificates in priority-II admission category, of which two (2) are fake. With two (2) other NSS certificates, he would not get admission in the University College.

d) The petitioner's statement that he was given admission initially in SVSA College is baseless.

**e) His admission into M.A. Telugu course at the University College was under NSS category only and two (2) NSS certificates are found fake. Therefore, his admission is found to be irregular.**

f) The enquiry committee wrote to the Dist. Co-ordinator of NYK, the organizers of NICs at Bidar and Karimnagar and sought clarification on the certificates of participation in respect of Mr. V. Gandhi. The reply dated 15-07-2014 reveals that Mr. V. Gandhi has not participated in the NIC.

g) The matter will be brought to the notice of the apex bodies for cancellation of the said fake certificates and also to take necessary action in the matter.

4. **The case of the petitioner, in brief, as per the averments made by the petitioner in support of the present writ petition, read as under:**

a) The petitioner has been admitted in M.A.(Telugu) in the year 2011, pursuant to admission notification and eligibility through entrance test which was conducted by the University. Initially, the petitioner was given admission in SVSA College, Warangal through counseling conducted by the Director of Admissions, Kakatiya University. Subsequently, the petitioner with an intention to pursue his education in the University College had approached the respondent University under the scheme of sliding from one college to another college which is permissible under University Rules and Regulations of Admissions and the respondent University after verifying the petitioner's testimonials and rank obtained in the entrance test had considered to permit the petitioner to pursue MA (Telugu) in the University College of Kakatiya University, Warangal. The petitioner had studied well and completed the course in the year 2013 in 1<sup>st</sup> division with distinction, further

the University awarded a Gold Medal for the year in the Telugu Department and accordingly, the pass certificate was issued to the petitioner. Subsequent to the completion of MA Telugu course in the year 2013 the petitioner had appeared for the entrance test conducted by the University for Admissions into Ph.D degree during the year 2013-14 and accordingly, the petitioner also got selected for the same. The petitioner also was selected for award of Fellowship for the year 2013-14 under the scheme of Rajiv Gandhi National Fellowship for Students with Disability during financial year 2013-14. While so, based on a complaint alleged to have been lodged against the petitioner enquiry was conducted in an unfair manner and based on the report the standing committee of the Academic Senate at its meeting held on 05.05.2015 took a decision to recommend to the Executive Council to cancel petitioner's MA (Telugu) Degree, which was issued to the petitioner in the year 2011.

b) It is further the case of the petitioner that the subject issue was placed before the Executive Council at its 112<sup>th</sup> Meeting held on 27.08.2015 wherein, the Executive Council resolved to cancel the MA (Telugu) Degree awarded by the

respondent university to the petitioner and also to inform the UGC to cancel the sanction of Rajeev Gandhi National Fellowship given to disabled scholars pursuing Ph.D Degree. The petitioner was shocked to receive the impugned orders dated 21.09.2015 issued by the respondent university cancelling the MA (Telugu) Degree awarded to the petitioner with Roll No.21000A00. Aggrieved by the said proceedings dated 21.09.2015 No.650/B2/KU/2015 issued by the respondent university, the petitioner approached the Court by filing the present writ petition.

**5. The learned counsel appearing on behalf of the petitioner mainly puts forth the following submissions:**

- a) The impugned order of the respondent university dated 21.09.2015 is unilateral and contrary to rules.
- b) The petitioner's admission into MA (Telugu) Degree is only based on the marks obtained in the entrance test conducted by the university.
- c) The petitioner sought admission in the university college under the scheme of sliding under NSS category. The certificates that were issued by the respective programme

coordinator of the NSS programme were also duly signed by Registrar, Vice Chancellor of the university.

d) NSS certificate under dispute were neither withdrawn nor cancelled by the issuing authorities and are in force. The orthopedically handicapped certificate issued by the competent authority under the relevant provision is within four corners of law.

e) The petitioner is a meritorious candidate and secured highest marks in Ph.D. entrance test conducted by the university in 2013 and he is entitled for Rajeev Gandhi National Fellowship for Students with Disabilities for the year 2013-14.

f) The unilateral decision in passing the impugned order dated 21.09.2015 by the respondent university is only to accommodate some other candidate and for extraneous reasons.

**On the basis of the aforesaid submissions, the learned counsel for the petitioner contended that the writ petition has to be allowed as prayed for.**

6. **The learned counsel appearing on behalf of the respondents mainly puts forth the following submissions:**

1. The impugned orders dated 21.09.2015 cancelling the degree of MA Telugu of the petitioner herein is as per rules and duly following the procedure.

2. The respondent university provided ample time to the petitioner to establish his genuinity, but the petitioner failed to do so.

3. Petitioner's admission into MA Telugu course at the University college was under NSS category only and two NSS certificates are found fake and therefore, the admission of the petitioner into the said course is found to be irregular.

4. The Enquiry Committee, wrote to the District Coordinator of NYK, the organizers of NICs at Bidar and Karimnagar and sought clarification on the certificates of participation in respect of Mr V Gandhi and the reply dated 15.07.2014 reveals that Mr V Gandhi has not participated in NIC.

5. Placing reliance on paras 5, 6 and 7 of the counter affidavit filed by the respondent university, learned counsel

appearing on behalf of the respondent university it is contended that the orders impugned dated 21.09.2015 awarded to the petitioner was not cancelled mechanically and in a casual manner and the due procedure as mandated under the rule was followed and the petitioner was given ample time and opportunity to establish his genuinity and getting admission to MA Telugu at the university college.

**7. Placing reliance on the aforesaid submissions and the averments made in the counter affidavit filed in the present writ petition it is contended that the writ petition has to be dismissed.**

#### **DISCUSSION AND CONCLUSION**

**8. As per the notification, Clause 8, issued by the Director, Directorate of Admissions, KU Warangal, the order impugned dated 21.09.2015 has been passed by the respondent university and the same is referred to in the order impugned and the same is extracted hereunder:**

**"Clause 8:**

**The admission of a candidate will be cancelled at any time during the course of study and the**

**candidate is liable for criminal prosecution, if it is found that admission is secured on false grounds or by suppression of facts."**

9. A bare perusal of the show cause notice dated 04.08.2014 issued by the respondent herein (referred to and extracted above) clearly indicates that the respondent university issued the show cause notice pre-determining the subject issue against the petitioner and the said notice does not indicate as explanation is being sought for by the petitioner rather it indicates that the decision has already been arrived at on the subject issue unilaterally behind the back of the petitioner.

10. A bare perusal of the impugned order dated 21.09.2015 of the respondent herein does not indicate consideration of the detailed explanation of the petitioner dated 04.08.2014 though the said explanation is extracted in verbatim in the order impugned dated 21.09.2015 passed by the respondent university, there is no discussion at all in the said order dated 21.09.2015 issued by the respondent university in so far as consideration of explanation on merits and



the order impugned dated 21.09.2015 is passed stating that as per the rules of admission "the admission of the candidate will be cancelled at any time during the course of study and the candidate is liable for criminal prosecution, if it is found the admission is secured on false grounds or by suppression of facts.

11. A bare perusal of the Clause 8 clearly indicates that it is only at any time during the course of study, the respondent university can invoke the said power of cancellation of a degree. Herein in the present case, admittedly as borne on record, the petitioner had been admitted into MA (Telugu) in the year 2011 and completed the course in the year 2013 in 1<sup>st</sup> Division with Distinction and further the university awarded the petitioner a Gold Medal for the year in the Telugu Department and accordingly, the pass certificate was issued to the petitioner and therefore, the plea of the respondent university that as per Condition No.8 of the notification the respondent university had passed the order impugned dated 21.09.2015 is totally without

**Power or Authority vested by the respondent university.**

**12. The Apex Court in the Judgment reported in (2010) 13 SCC 427 in Oryx Fisheries Pvt., Ltd., Vs. Union of India & Others, in its Head note duly referring the relevant paras of the said judgment, observed as under :**

“It is well settled that a quasi-judicial authority, while acting in exercise of its Statutory power must act fairly and must act with an open mind while initiating a show-cause proceeding. A show-cause proceeding is meant to give the person proceeded against a reasonable opportunity of making his objection against the proposed charges indicated in the notice. (Para 24).

At the stage of show-cause, the person proceeded against must be told the charges against him so that he can take his defence and prove his innocence. **At that stage the authority issuing the charge-sheet, cannot, instead of telling him the charges, confront him with definite conclusions of his alleged guilt. If that is done, as has been done in the present case, the entire proceeding initiated by the show-cause notice gets vitiated by unfairness and bias and the subsequent proceedings become an idle ceremony. (Para 27)**

Justice is rooted in confidence and justice is the goal of a quasi-judicial proceeding also. If the functioning of a quasi-judicial authority has to inspire confidence in the minds of those subjected to its jurisdiction, such authority must act with utmost fairness. Its fairness is obviously to be manifested by the language in which charges are couched and conveyed to the person proceeded against.

**In the present case, from the show-cause notice it is clear that the third respondent, Deputy Director, MPEDA HAS demonstrated a totally closed mind at the stage of show-cause notice itself. Such a closed mind is inconsistent with the scheme of Rule 43 of the MPEDA Rules. (Para 29).**

Khem Chand v. Union of India, AIR 1958 SC 300, followed

It is true that the show-cause notice cannot be read hyper technically and it is well settled that it is to be read reasonably. **But, while reading a show-cause notice the person who is subject to it must get an impression that he will get an effective opportunity to rebut the allegations contained in the show-cause notice and prove his innocence.** If on a reasonable reading of a show-cause notice a person of ordinary prudence gets the feeling that his reply to the show-cause notice will be an empty ceremony and he will merely knock his head against the

impenetrable wall of prejudged opinion, such a show-cause notice does not commence a fair procedure especially when it is issued in a quasi-judicial proceeding under a statutory regulation which promises to give the person proceeded against a reasonable opportunity of defence. (para 31)

**Therefore, while issuing a show-cause notice, the authorities must take care to manifestly keep an open mind as they are to act fairly in adjudging the guilt or otherwise of the person proceeded against and specially when the authority has the power to take a punitive step against the person after giving him a show- cause notice. (para 32)**

**The principle that justice must not only be done but it must eminently appear to be done as well is equally applicable to quasi-judicial proceeding if such a proceeding has to inspire confidence in the mind of those who are subject to it. (para 33)"**

13. The Apex Court in the judgment reported in *Guru Nanak Dev University v Sanjay Kumar Kothwal* reported in 2009(1) SCC page 610 held that long after a student has completed the course of study and was permitted to appear for the examination, the university cannot be heard to contend that the admission of the candidate

was irregular or that he was ineligible for admission. Applying the principles laid down in the aforesaid decision to the present case, this Court opines that the respondent university cannot contend that the admission is secured by the petitioner on false grounds or suppression of facts and hold the degree granted to the petitioner in the year 2013 as invalid vide the impugned order dated 21.09.2015 issued by the respondent authority.

14. The Apex Court in the judgment reported in *Guru Nanak Dev University v Sanjay Kumar Kothwal* reported in 2009(1) SCC page 610 and in particular at Para 19 of the said judgment observed as under:

19. The first respondent was informed that he was not eligible only after he took the first semester examination. He has, however, also been permitted to continue the course and has completed the course in 2007. He has succeeded before the High Court. Now after four years, if it is to be held that he is not entitled to admission, four years of his career will be irretrievably lost. **In the circumstances, it will be unfair and unjust to deny the first respondent the benefit of admission which was initially accepted and recognised by the appellant University."**

**15. In Santan Goda v Berhampur University and others, the Apex Court in its judgment dated 02.04.1990 reported in 1990(3) SCC 23, held that where the candidate was admitted to the Law course by the Law College and the University also permitted him to appear for pre law and intermediate law examinations, the college and the university are estopped from withholding his result on the ground that he was ineligible to take admission in the law course.**

**16. The Apex Court in the judgment reported in 1976 (1) SCC 311 in Shri Krishnan v The Kurukshetra University in its Head note referring to para 6 of the said judgment, observed as under:**

“(a) The University Ordinance empowers the authorities to withdraw the certificate regarding attendance before the examination if the candidate fails to reach the prescribed minimum. But this could be done only before the examination. Once the appellant was allowed to take the examination, rightly or wrongly, then the statute which empowers the university to withdraw the candidature of the applicant has worked itself out and

the applicant cannot be refused admission subsequently for any infirmity which should have been looked into before giving the applicant permission to appear.

**17. Taking into consideration the aforesaid facts and circumstances of the case and duly considering the law laid down by the Apex Court judgments (referred to and extracted above) and again enlisted hereunder:**

1. The Apex Court judgment in *Oryx Pvt., Ltd., Vs. Union of India & Others* reported in (2010) 13 SCC 427.

2. The Apex Court judgment in *Guru Nanak Dev University v Sanjay Kumar Kothwal* reported in 2009(1) SCC page 610.

3. The Apex Court judgment in *Santan Goda v Berhampur University and others*, reported in 1990(3) SCC 23.

4. The Apex Court judgment in *Shri Krishnan v The Kurukshetra University* reported in 1976 (1) SCC 311.

**And in the light of the discussion and conclusion as arrived at as above, the writ petition is allowed as prayed for and the impugned order No.650/B2/KU/2015, dated 21.09.2015 of the respondent university is hereby set aside. However, there shall be no order as to costs.**

Miscellaneous petitions if any, pending shall stand closed.

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**SUREPALLI NANDA, J**

Dated: 26.02.2024.

Note: L.R. Copy to be marked

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